

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

LOVET NDIALLE

*

Plaintiff,

*

Case No.:

v.

*

***Removed from Fairfax County Circuit Court
Case No.: 2022-08102***

SAKS FIFTH AVENUE LLC

*

Defendant.

*

* * * * *

NOTICE OF REMOVAL

Defendant, Saks Fifth Avenue LLC (“Saks”), by and through its undersigned counsel and pursuant to 28 U.S.C. § 1441, et seq., hereby notices the removal of the above-entitled action from the Fairfax County Circuit Court in Virginia, Case No.: 2022-08102 to the United States District Court for the Eastern District of Virginia.

In support of this Notice of Removal, Saks states:

I. REMOVAL TO THIS JURIDICTION IS PROPER AND TIMELY

1. On or about June 17, 2022, Plaintiff, Lovet Ndialle filed an action against Saks in the Fairfax County Circuit Court in Virginia entitled *Lovet Ndialle v. Saks Fifth Avenue LLC*, Case No. 2022-08102 alleging causes of action for Malicious Prosecution and False Imprisonment. A copy of the Writ of Summons and Complaint are attached as **Exhibit A**.

2. Pursuant to 28 U.S.C. § 1446(b)(1), the Complaint is the “initial pleading setting forth the claim for relief upon which [this] action or proceeding is based.”

3. Pursuant to 28 U.S.C. § 1446(a), true and legible copies of all process, pleadings, papers, and Orders which have been served upon Saks in this matter are attached as **Exhibit B**.

4. This Notice of Removal is being filed within thirty (30) days after service upon Saks of a copy of the Complaint and Summons, which occurred on August 15, 2022 and, as such, is timely filed under 28 U.S.C. § 1446(b)(1).

5. Venue is proper under 28 U.S.C. § 1441 and 28 U.S.C. § 1446 because the Plaintiff and Defendants are citizens of different states.

II. THIS COURT HAS DIVERSITY JURISDICTION.

6. Removal of this action is proper under 28 U.S.C. § 1441. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. There is Complete Diversity of Citizenship Between the Parties.

7. According to the Complaint, Plaintiff is a resident of the State of California. *See Compl. ¶ 1 (Exhibit A.)*

8. Defendant, Saks is a Massachusetts corporation with its principal place of business in New York.

9. Accordingly, there is complete diversity because Plaintiff, on the one hand, and Defendant, on the other hand, are citizens of different states. 28 U.S.C. § 1332(a).

B. The Amount in Controversy Requirement is Satisfied.

10. The Complaint alleges that because of Defendant's wrongful actions, Plaintiff was detained, arrested, and charged with two Virginia crimes, Forging a Bank Note and Obtaining Money Under False Pretenses. *See Compl. ¶ 6.*

11. Plaintiff alleges further that “[a]s a consequence of [his] arrest, he now suffers from extreme anxiety relating to going outside or interacting with employees, particularly in the retail setting [and that he] has had to seek psychiatric care as a result of the incident.” *See Compl.* ¶ 7.

12. As a result, Plaintiff seeks \$250,000 in lost potential earnings, \$350,000 in punitive damages, and \$1,000,000 in compensation for pain, suffering and humiliation for a total of \$1,600,000 in damages.

13. Plaintiff, therefore, seeks damages in an amount in excess of \$75,000.00, exclusive of interest and costs, and meets the amount in controversy requirements of 28 U.S.C. § 1332(a).

14. Accordingly, this Court has subject matter jurisdiction over this action.

III. NOTICE IS BEING SENT TO PLAINTIFF AND FILED IN STATE COURT.

15. Written notice of the filing of this Notice of Removal is being served on this date upon Plaintiff’s counsel of record pursuant to 28 U.S.C. § 1446(d). A copy of that Notice is attached as **Exhibit C**.

16. Further pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal is being filed on this date with Clerk for the Fairfax County Circuit Court for Virginia.

WHEREFORE, Defendant, Saks Fifth Avenue LLC, respectfully requests, based upon the allegations of this Notice of Removal, that this action is properly removable and requests that this court retain jurisdiction over the same.

[Signature Page Follows]

/s/ Joshua R. Chazen

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*Attorneys for Defendant,
Saks Fifth Avenue LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of September, 2022, a copy of the foregoing
NOTICE OF REMOVAL was mailed first-class mail, postage prepaid, and email, to:

Thomas F. Hennessy, Esq.
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Attorney for Plaintiff

/s/ Joshua R. Chazen

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